

**FLATHEAD COUNTY PLANNING BOARD MEETING
MINUTES OF THE MEETING
APRIL 11, 2007**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Gordon Cross, Michael Mower, Gene Dziza, Don Hines, Kim Fleming, Frank Dekort, Barry Conger, and Kathy Robertson. Randy Toavs had an excused absence. Eric Giles and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were approximately 3 people in the audience.

**PUBLIC
REVIEW**

Gene Dziza reviewed the public hearing process for the public.

**APPROVAL OF
MINUTES**

Dziza made a motion seconded by Robertson to approve the February 14, 2007 meeting minutes.

The motion was carried by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**PRELIMINARY
PLAT/
GLACIER
PINES
(FPP 07-04)**

A request by Carla Mangel for Preliminary Plat approval of Glacier Pines Subdivision, a nine (9) lot single-family residential subdivision on 94.436 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located off Blankenship Road, approximately 1000' west of Burlington Northern Railroad.

**STAFF
REPORT**

Eric Giles reviewed Staff Report FPP 07-04 for the Board

**BOARD
QUESTIONS**

Robertson pointed out some corrections to the findings-of-fact.

Conger asked how far the property is from the railroad tracks.

Giles said approximately a quarter of a mile.

Fleming asked about putting a restriction on the emergency access.

Giles said there is typically a break-away gate on the emergency access.

Fleming asked about making the cul-de-sac longer.

Giles said there is a 55-ft radius.

Conger asked about emergency access maintenance.

Giles said the standard is 40-ft wide with a 20-ft gravel surface.

APPLICANT

Eric Mulcahy, of Sands Surveying, said the application complies with the County Subdivision Regulations. The application went to the Middle Canyon Land Use Advisory Committee; 2 out of 3 Board members were present and about a half-dozen concerned neighbors. The Committee voted unanimously to approve the proposal. In regards to Condition 11, he would like more clarification so the applicant could incorporate defensible space standards and maintain a healthy forest. He said there would be no problem with limiting access to internal subdivision road.

Robertson referred to page two of the Environmental Assessment and would like to see something in the covenants that addresses vegetation and trees. She knows the Board can't require it but something needs to address trees.

Mulcahy asked the Board for suggestions. He referred to condition 11 and said it could state existing trees and ground-cover would be maintained except for defensible space.

Robertson said people clear-cut just to get a view.

Cross asked about making the access road a through road.

Mulcahy said the applicant wanted to have an entrance and private access, which would be built to County standards. The fire department would have full use of that road. He said Blankenship put in a very good access. He feels people would be able to use this whether it's a primary or secondary access.

Cross asked which direction the residents would come from.

Mulcahy said the quickest way from the Valley is going from Hwy 2 to Belton Stage, however the North Fork Road is scenic as well. They don't anticipate permanent residents; mostly seasonal. People tend to purchase land in the canyon for recreational uses such as to have a second home.

Cross said the EA stated there would be CC&R's to prohibit further subdivision of the lots. He asked Mulcahy if he would

have a problem with that being a condition on the plat.

Mulcahy said he can't speak for the applicant, but personally doesn't have a problem with it.

Conger asked if the 20-ft trail easement would be for public access or for lot owners.

Mulcahy said it would be for the lot owners.

Conger asked if there is any anticipation of public access to the Forest Service land.

Mulcahy said the property directly to the west is Forest Service land. He said you can access the land from the road.

Conger asked if there was a subdivision east of the property.

Mulcahy said there was a 5-lot minor subdivision with a remainder. The remainder was sold to the applicant, which is the subject property of this proposal.

AGENCIES	None present.
PUBLIC COMMENT	None.
STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None.
MAIN MOTION F.O.F.	Cross made a motion seconded by Fleming to adopt Staff Report FPP 07-04 as Findings-of-Fact.
MOTION ADD F.O.F.	Cross made a motion seconded by Robertson to add the Middle Canyon Land Use Advisory Committee recommendation as a finding-of-fact to read: <i>On March 27, 2007 the Middle Canyon Land Use Advisory Committee voted unanimously to recommend approval.</i>
ADD F.O.F. ROLL CALL	On a roll call vote the motion passed 7-1 with Hines dissenting.
BOARD DISCUSSION	Robertson suggested a few changes in regards to the numbering on the staff report.

There were no objections from the Board.

**MAIN MOTION
F.O.F. ROLL
CALL**

On a roll call vote the motion passed 7-1 with Hines dissenting.

**MAIN MOTION
TO APPROVE**

Fleming made a motion seconded by DeKort to recommend approval of this subdivision, as conditioned, to the County Commissioners.

**MOTION
ADD COND #21**

Fleming made a motion seconded by DeKort to add condition #21 to read: *Access to all lots will be from the internal subdivision road.*

**ROLL CALL
ADD COND #21**

On a roll call vote the motion passed unanimously.

**MOTION
AMEND COND.
#15(d)**

Fleming made a motion seconded by Robertson to amend condition #15(d) to read: *The property owners association or road user's agreement will govern maintenance of the internal subdivision road and emergency access.*

**BOARD
DISCUSSION**

The Board further discussed the road.

Cross talked about the recharge facility, access, and paving.

Conger talked about road maintenance and who would be responsible. He also talked about overall hazards in the area.

Dziza asked what the approximate cost of paving would be.

Mulcahy said it would be a substantial amount of pavement. He said they would be paving a lot more road than is required by both the current and proposed Subdivision Regulations.

Dziza asked again what the approximate cost would be.

Mulcahy said you'd be looking at a 20-ft road, approximately 600-ft long, at a cost of around \$50 per square foot.

Someone from the Board said it would cost roughly around \$15,000-\$20,000.

Mulcahy said that's a substantial amount of money.

Mower asked if there were any potential security issues or any attempt to restrict access to the subdivision.

Mulcahy said the applicant isn't even suggesting there has to be a gate. He said if there were a gate it would be a "weak link" gate.

The Board, Staff, and the applicant discussed the road and access.

**ROLL CALL
AMEND COND.
#15(d)**

On a roll call vote the motion passed unanimously.

**MOTION
AMEND COND.
#3**

Conger made a motion seconded by Hines to amend condition #3 to read: *The applicant will pave the proposed internal subdivision road and emergency access, which will have a 60' right of way.*

**BOARD
DISCUSSION**

Cross talked about the cost of paving and said it would increase the value of the lots.

**ROLL CALL
AMEND COND.
#3**

On a roll call vote the motion passed 5-3 with Fleming, Dziza, and Mower dissenting.

**MOTION
ADD COND #22**

Hines made a motion seconded by Robertson to add condition #22 to read: *No gates will be installed on the internal subdivision road.*

**BOARD
DISCUSSION**

Hines voiced his discontent with gated subdivisions. He likes to see traffic be able to flow through the valley.

Mower thinks the decision of whether there's a gate or not should be at the discretion of the homeowners.

**ROLL CALL
ADD COND #22**

On a roll call vote the motion failed 3-5 with Mower, Fleming, Robertson, Dziza, and Conger dissenting.

**MOTION
ADD COND
#15(g)**

Cross made a motion seconded by Robertson to add condition #15(g) to read: *Lots will not be further subdivided.*

**BOARD
DISCUSSION**

Mower questioned what the Board would gain by placing such a condition.

Cross stated he liked this condition because the Board knows how it's going to permanently look; you can picture what it will look like in the future.

Conger said this subdivision is in a place where you'd want the condition of no further subdivision.

Robertson said this development is a remainder of a previously approved subdivision, which is now being split up. She said this can't continue to happen.

Dziza said, as a general rule, he doesn't like the "blanket" rule that you can't subdivide anymore. He said land use should be entitled to evolve because it changes.

The Board discussed the condition of no further subdivision.

**ROLL CALL
ADD COND
#15(g)**

On a roll call vote passed 7-1 with Mower dissenting.

**BOARD
DISCUSSION**

Robertson pointed out that she would like to see the word "will" changed to "shall" in some of the conditions.

Dziza asked Staff to make those changes if there were no objections from the Board.

Dziza asked Giles his opinion on condition #11 with regard to forest thinning, fire safety, etc.

Giles said this condition helps to meet the intent of the Canyon Plan, which is to maintain the rural, natural environment. If the applicant wants to do thinning, to become more "fire wise", that would be ok, just not clear-cutting the whole area. They would be preserving existing trees, vegetation, wildlife habitat, water, and air quality.

Conger asked if section 3.2 of the Subdivision Regulations provides any allowances for collective thinning and fire prevention.

Giles said yes, if there is a health & safety concern.

**MOTION
AMEND COND
#11**

Conger made a motion seconded by Robertson to amend condition #11 to read: *Existing trees, ground cover, and other vegetation will be retained in accordance with Section 3.2, FCSR, with the exception of creating defensible space and managing a healthy forest.*

**BOARD
DISCUSSION**

Conger said this condition would prohibit the developer from removing vegetation. He said this condition wouldn't necessarily prohibit a future lot owner from clear-cutting the property.

**ROLL CALL
AMEND COND
#11**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Robertson wanted to point out, for the record, she felt something should be put in the CC&R's regarding vegetation preservation.

**MOTION
ADD COND
#15(h)**

Conger made a motion seconded by Robertson to add condition #15(h) to read: *Existing trees, ground cover, and other vegetation will be retained in accordance with Section 3.2, FCSR, with the exception of creating defensible space and managing a healthy forest.*

**BOARD
DISCUSSION**

Cross asked Giles if it was his interpretation that adding this to the face of the plat would be keeping with the Canyon Plan.

Giles said yes.

Mower said this means if someone wanted a horse and a 2-acre pasture they couldn't have it.

Grieve said there's nothing in the Canyon regulations that would prohibit someone from doing this. A statement on the face of the final plat isn't regulatory; it's a "pass through" of information to the lot owners reflecting the Planning Board's concerns.

The Board and Staff continued to discuss clear-cutting.

Hines mentioned the 2003 fire.

**ROLL CALL
ADD COND
#15(h)**

On a roll call vote the motion failed 1-7 with Conger in support.

**BOARD
DISCUSSION**

Conger asked about making a public access to the Forest Service land.

The Board further discussed this.

Conger said he supports this subdivision, however it's fairly unimaginative. He talked about clustering. He thinks the development community needs to raise the bar in terms of creativity.

Giles said the Canyon doesn't allow clustering.

Mulcahy said clustering isn't allowed and there's a 10-acre minimum lot size.

MAIN MOTION
ROLL CALL

On a roll call vote the motion passed on a 7-1 vote with Hines dissenting.

Dziza announced that all decisions made by the Planning Board are recommendations and will be forwarded to the County Commissioners for final action.

OLD
BUSINESS

Cross mentioned the Board's bylaws and said they had nothing to do with Fleming's original concerns.

Grieve asked what Fleming's original concerns were.

Fleming said she didn't have her list with her.

Cross said the question was whether or not the Board members should allow themselves to be lobbied by people who are involved, one way or the other, with individual projects.

Dziza asked if bylaw changes have to be noticed.

Fleming said bylaws go to the Commissioners for approval.

Grieve wasn't sure if it had to be noticed.

Robertson said it would have to be worded very carefully. She said everyone has friends in the development community. If someone comes to her house and starts discussing things, she doesn't feel it is her obligation to tell them she can't talk about it. She said lobbying is one thing; discussing proposals is another.

Mower doesn't think you can legislate ethics. You can't conjure up enough rules to determine what is ethical and what is not; it is individual boundary.

NEW
BUSINESS

Hines said he got a message from Jonathan Smith on Monday. He said the acting director, before Harris, owes him money. He gave her the privilege of parking a motorcycle on his commercial property south of town. It sat there a long time and didn't sell so she took it home. The following spring, a guy inquired about the motorcycle. He gave the guy her contact information and he ended up purchasing the motorcycle. He was told he would be compensated for helping sell the motorcycle. He ran into her at Scotty's and asked her if she wanted to pick up his lunch tab and was told it would be a "cold day in hell" before that

happened. He came to find out the comment about him voting no on all applications got around. This particular individual thought he was focusing on her and said it would be ethical for him to step down when any of her applications come before the Board. He said this issue has gone to the Commissioners, the Planning Board President, and now Jon Smith, a County Attorney. Everyone now knows the story and he'll be taking her to court.

Grieve said the Commissioners had a Subdivision Regulation workshop today. He said some sections were pulled out for referral to Planning Board. He said the Commissioners are going to adopt a set of Subdivision Regulations as interim regulations. During the interim, certain sections in the current draft are going to be removed and be referred to the Board to be worked on, which will eventually go into the final version. Other sections will stay in the interim regulations and also be referred to the Board to be worked on. He gave the Board a rundown on what's coming up in regards to the draft regulations.

Robertson asked if the sections the Board would be working on are going to be a newly drafted draft.

Grieve explained.

Hines made a motion asking that a message be sent to the County Commissioners stating the Board will not address any of these issues until after September 1, 2007.

Hines said he has several commitments during the summer months and said the Board could be more productive if there were not 3-4 meetings per month.

Mower asked if there is an imposed timeline on the process.

Grieve said the deadline for the Subdivision Regulations will not be met. He said the Commissioners are not going to act for another 30 days.

Robertson asked if the Board were going to have a timeline.

Grieve asked if she meant the Commissioners are going to give the Board a task and a deadline.

Robertson said yes.

Grieve wasn't sure.

The previous motion fails due to lack of a second.

The Board and Staff discussed, at length, the Subdivision Regulations.

Grieve said Growth Policies will be given out at the next Board meeting. He mentioned the joint meeting with the City. He said he will email the Board a reminder of this meeting. He said the Bylaw discussion will be next week. He let the Board know three planners are leaving and how that will affect the office. He said three Planner II positions will be open and the soonest he expects people to be hired is June 2007. He asked the Board for their blessing to prioritize the Bigfork Neighborhood plan and asked for a motion to that affect.

Dziza made a motion seconded by Robertson to prioritize the Bigfork Neighborhood Plan.

The motion was carried by quorum.

Cross asked for a brief status report on the Road Design Standards.

Grieve said the Road Department is “running the show” and it’s available on their website.

Cross thought there was a hearing about it.

Grieve said he would check and include that information in the email he planned on sending the Board. He said the Standards were written by a contracted engineering firm called Pecia, out of Helena.

Dziza asked Grieve to check and see if Kurt Hafferman could come talk to the Board about water issues.

The Board and Staff discussed water issues.

ADJOURNMENT The meeting was adjourned at approximately 7:30 p.m. on a motion by Robertson seconded by Mower. The next meeting will be held at 6:00 p.m. on April 18, 2007.

Gene Dziza, Chairman

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/16/07